Supreme Court, U. S.
FILED
NOV 13 1979
MICHAEL RODAK, JR., CLERK

IN THE

SUPREME COURT OF THE UNITED STATES

October Term, 1979

NO. 79-755

MAUREEN KELLY LECHT

Petitioner

VS.

LEVINSON ET AL

Respondents

MOTION FOR LEAVE TO FILE AND PETITION FOR A WRIT OF HABEAS CORPUS

PURSUANT TO DENIAL BY THE UNITED STATES CIRCUIT COURT OF APPEALS FOR THE SECOND CIRCUIT OF RULE 60(b) REVIEW

Pro Se Petitioner
P.O. Box 4154
Greenwich, Ct.
06830

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CERTIFICATION

This is to certify that a copy of the within Motion for Leave to File and Petition for Habeas Corpus was mailed to the following attorneys of record on this __ day of November 1979:

Jeremy G. Zimmerman
Wiggin & Dana
New Haven, Ct. 06508

James J. Maher
Thomas C. Thornberry
955 Main Street
Bridgeport, Ct. 06600

Ronald D. Williams
Pullman, Comley, Bradley and Reeves
855 Main Street
Bridgeport, Ct. 06604

Carl Ajello, Atty. Gen.
Barney Iapp & Wm. J. Prensky
Asst. Attys Gen.
Hartford, Ct. 06106

Janet I. Weinberg
Asst. Town Attorney
Town Hall
Greenwich, Ct. 06830

Karen I. Karpie
Bai, Pollock & Dunnigan
10 Middle Street
Bridgeport, Ct. 06604

Maureen Kelly Iecht
Pro Se Petitioner
P.O. Box 4154
Greenwich, Ct. 06830

IN THE
SUPREME COURT OF THE UNITED STATES
(Court of Appeals Docket #79-8431)

October Term, 1979

NO.

MAUREEN KELLY IECHT
Petitioner

VS.

IEVINSON ET AI
Respondents

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This is a motion for leave to file a petition for habeas corpus relief pursuant to Title 28, United States Code 2241, 2242, and 2244(c).

On August 14, 1979, the petitioner was denied hearing in the Second Circuit Court of Appeals as appears in Appendix, page 1.

On October 22, 1979, the marital trial court at Stamford, Connecticut, acting after eighteen months of withholding decision on the petitioner key-point motions, upheld and entered the judgment of December 8, 1977, contested by the petitioner as null and void for considerations of duress, abuse of process, malicious prosecution, lack of subject-matter jurisdiction, civil rights conspiracy, and various violations of State law. State memorandum of decision appears in Appendix, page 5. Exhibits from the petitioner's motion to vacate judgment appear in Appendix, pages 24-29.

Paramount in the petitioner's claims is clear and incontrovertible evidence that she has been penalized by the State court for petitioning her government for redress of wrongs done to her in violation of her First Amendments rights, cf. Givhan v. Western Line Consolidated School District et al (United States Supreme Court, 1/9/79) 47 I.W. 4102-4104, regarding "private expression of one's views."

Because the purported State court judgment contained a waiver of her rights to appeal (Appendix, page 27), the petitioner maintains that she is suffering an exhaustion of remedies in both federal and state court, a condition which may not have existed theoretically at the time that her previous petition for habeas corpus was docketed with this Court as No. 78-1921, denied October 1, 1979.

Constitutional violations are extreme and obvious on the face of the record. Abuse of process is exhibited by a pattern of three pre-emptions of procedural return dates engaged in by the respondents, the last being summary eviction attempted on April 21, 1979, (Appendixed police report, page 28) and successful as of April 26 1979 (Appendixed police report, page 29).

Beginning with the State court motion-hearing of June 15, 1976, maliciously entered upon by the respondents, the petitioner has been placed in jeopardy of her liberty, of custody of her minor children, and of financial and property accruing to her by marriage and her previously unblemished reputation as a mother. Said motion-hearing constituted criminal behavior in violation of State law C.G.S. 17-184 prohibiting conspiracy-to-commit.

Within the federal district court at Bridgeport, the petitioner has charged the respondents with civil-rights conspiracy via their unsuccessful attempt to commit the petitioner involuntarily to psychiatric drugging and/or hospitalization as appears in transcript from June 15, 1976 (Appendix, pp. 6-11contains excerpts). Subsequently, other court and town officials joined the respondents in attempts to cover up actions taken against the petitioner and her minor children, as appears in Docket No. 78-1921 within the petitioner's brief.

On a theory of "pendency" proffered by the State Attorney General, "conclusory" allegations of conspiracy, lack of "color of State law," State court "competency," insufficient nexus between "school employee" Charles McCarroll and 42 U.S 1985 to support an action in private conspiracy, and limited federal jurisdiction (particularly in marital matters), the federal district court dismissed the petitioner's complaint.

Three Rule 60(b) motions to reopen in the federal district court were denied despite: (1) newly discovered evidence that respondent McCarroll was, at the time of entry of federal suit, acting in private employment with respondent Lecht and not merely a "school employee;" (2) voluminous evidence that the State court, in ongoing civil-rights conspiracy, had violated the First, Fourth, Fifth, Thirteenth and Fourteenth Amendment rights of the petitioner and her minor children; (3) drastically changed circumstances with renewed threat of eviction, cf. New Haven Tenants' Representative Council, Inc. v. Housing Authority, 390 F. Supp. 831 (D.C. Conn. 1973). As subsequently transpired, the Town Attorney provided assistance to respondent Lecht in his illegal attempt to remove the petitioner's furniture and evict

on April 21, 1979, (Appendix police report, page 28) supplying further cause for the petitioner to complain under the authority of Monell v. New York City Dept. of Social Services, 46 LW 4569, previously cited in objection to entry of the federal district court ruling.

On the basis of the foregoing and of issues argued within this petition and that denied October 1, 1979 (Docket No. 78-1921), the petitioner invokes the original jurisdiction of this Court to provide habeas corpus relief from the police powers of the state invoked through marital jurisdiction that have so deprived the petitioner (housewife and mother) of the equal protection of the law (abuse of process and malicious prosecution) and of her civil rights (invidiously class-based discrimination) as to have reduced her to the status of an involuntary servant within the marital bond. In seeking this relief, the petitioner argues that the State court evidenced its incompetence to entertain the action on June 15, 1976, by remanding the matter into psychiatric investigation without permitting a full and fair hearing, thereby blighting its jurisdiction. The federal district court has refused jurisdiction. The petitioner is, therefore, without a court of competent jurisdiction; has exhausted her state remedies; and no ruling that reaches the merits of her constitutional claims has been issued by either court.

THE PETITIONER, PRO SE

Maureen Kelly Iecht
P.O. Box 4154
Greenwich, Ct. 06830

November 12, 1979

IN THE
SUPREME COURT OF THE UNITED STATES

October Term, 1979

NO.

MAUREEN KELLY IECHT
Petitioner

VS.

IEVINSON ET AL
Respondents

AFFIDAVIT

I, Maureen Kelly Iecht, having been duly deposed and sworn, do hereby certify and attest to the truth of the statements I have made within this Motion for Leave to File and Petition for Habeas Corpus and within documents submitted in support of my cause within this case and controversay to all courts within which I have appeared or proposed to appear in connection with this matter.

(Signed)

Maureen Kelly Iecht

This is to certify that Maureen Kelly Iecht, known to me, appeared on this day of November 1979 and affixed her signature before me under oath.

SS:_____

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CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED IN THIS APPEAL

This case involves the First, Fourth, Fifth, Thirteenth and Fourteenth Amendments of the United States Constitution; 42 U.S. 1981 et seq.; 28 U.S. 1343(3)(4), under which jurisdiction has been invoked; and 20 U.S. 1232g. Arguments within are, however, addressed to the jurisdiction of this Court under 28 U.S. 2241, 2242, and 2244(c)(habeas corpus) in pursuit of full constitutional review.

Jurisdiction is claimed under Title 28, U.S.C., Sections 1343(3)(4) for the action instituted in the federal district court and the second circuit court of appeals.

Within this Court, jurisdiction may be noted under exceptional circumstances and with reference to 28 U.S.C. 2244(c), which reads:

> In a habeas corpus proceeding brought in behalf of a person in custody pursuant to the judgment of a State court, a prior judgment of the Supreme Court of the United States on an appeal or review by writ of certiorari at the instance of the prisoner of the decision of such State court shall be conclusive as to all issues of fact or law with respect to an asserted denial of a Federal right which constitutes ground for discharge in a habeas corpus proceeding, actually adjudicated by the Supreme Court herein, unless the applicant for the writ of habeas corpus shall plead and the court shall find the existence of a material and controlling fact which did not appear in the record of the proceeding in the Supreme Court and the court shall further find that the applicant for the writ of habeas corpus could not have caused such fact to appear in such record by the exercise of reasonable diligence.

CUSTODIAN

The petitioner is currently in the detention of the Superior Court of Fairfield County, Connecticut, at Stamford, under invalid and illegal judgment of separation verbally enunciated by State Referee Archibald S. Tunick on December 8, 1977, and entered by Judge Samuel Tedesco, presiding, October 22, 1979. The petitioner cannot, therefore, seek dissolution except under terms of that judgment and has exhausted her State remedies by the waiver of appeal rights contained within it. She is, therefore, subject to marital bondage in violation of her Thirteenth Amendment rights.

This case came into the Federal District Court at Bridgeport, Connecticut, on April 3, 1978, by complaint alleging conspiracy and acts attaching thereto in violation of 42 U.S. 1983 and 18 U.S. 241 and 242. Jurisdiction was claimed under 28 U.S. 1343 (3) and (4); 28 U.S. 2201, 2202; and 28 U.S. 2281. The complaint by Maureen Kelly Lecht was separated into counts as follows: (1) False report to a judge that a person is mentally ill; (2) Conspiracy; (3) Perjury; (4) Libel; (5) Malicious prosecution; (6) Psychiatric malpractice; (7) Invasion of privacy; (8) Abuse of the right to refuse treatment; (9) Abuse of the right to religious freedom; (10) Abuse of process; (11) Abuse of the right to adequate counsel. Trial by jury and civil damages, punitive and compensatory, in the amount of $20 million were sought by the petitioner as relief from the criminal actions of Dr. Peritz Levinson, Charles P. McCarroll, Miles McDonald, Bruce Cohen, and Charles F. Lecht, husband of the petitioner. In her pleadings, the petitioner excluded the Hon. John P. Cotter from damages and, at the time, assumed that defendant Cotter as Chief Court Administrator would represent the color of State law with which the abuses against her were permeated.

After oral argument requested by all parties was conducted on June 19, 1978, Magistrate Arthur Iattimer ruled in favor of motions to dismiss, citing, in summation: (1) insufficient nexus with the State in the capacity of the Hon. John P. Cotter to supply the requisite "color of State law;" (2) failure of the complaint against Charles E. McCarroll, social worker of Greenwich High School, assumed to be acting at the time as "only a school employee;" (3) insufficient class animus in plaintiff's arguments to suffice towards her proposed amendment

to include 42 U.S. 1985; (4) "conclusory" allegations of conspiracy; (5) lack of subject-matter jurisdiction in marital matters; (6) pendency of State law claims.

Objection to Magistrate Iattimer's ruling of June 30, 1978, was filed by the plaintiff on July 10, 1978, which included proposed amendments: (1) to enlarge the action on a class basis; (2) to include the Town of Greenwich as a defendant; (3) to correct the jurisdictional statement, and, (4) to include her minor children as plaintiffs represented by her.

Judgment overruling the plaintiff's objection was entered by the Hon. T. F. Gilroy Daly on July 26, 1978. On August 25, 1978, the plaintiff moved to reopen, to reclaim motions denied as moot, to proceed in forma pauperis, to obtain legal assistance, and to be granted permission to appeal with an amended ruling citing major public interest. On September 11, 1978, the plaintiff filed motions for stay and for summary declaratory judgment against C.G.S. 17-184, based upon vagueness and overbreadth of the statute's reliance on the phrase "mentally ill." Reopening was based upon new evidence that defendant McCarroll was in the private employ of defendant Iecht and that the impression given to the Court that he was "only a school employee" constituted fraud upon the Court.

In open court on October 19, 1979, the Hon. T. Gilroy Daly reaffirmed Magistrate Lattimer's ruling, proposing attorney consultation to the plaintiff, and denied the motion to reopen for reasons "stated in open court." He denied all other motions as moot.

Without money, attorney consultation proved fruitless. Subsequent reopenings attempted by the petitioner on grounds of drastically changed circumstances under the effect of brutal and ongoing civil rights conspiracy in the State court were denied.

STATEMENT OF FACTS

The gravamen of this case from the record of the State marital jurisdiction in Stamford, Connecticut, is established by the action of defendant Lecht herein, plaintiff-husband in the State case in having entered an action for dissolution of marriage against the petitioner on May 18, 1976, seeking custody of the parties' two children, vacation of the petitioner from the family residence and other relief based upon grounds of intolerable cruelty and irretrievable breakdown. The docket no. in the State case is 029167 FA 6. To support his claim for relief from intolerable cruelty, a ground that permitted entry of his complaint upon only four months' residence of either party within the State of Connecticut, defendant Lecht, by motion of June 8, 1976 (App. #78-1921 pp VII-6), caused the petitioner to be ordered into Court on June 15, 1976, prior to procedural return date, to show cause why she should not be submitted to psychiatric drugging and/or hospitalization, based upon allegations contained within the June 8, 1976, motion. Listed as witnesses available to testify in support of defendant Iecht's motion were defendant Dr. Peritz Ievinson, member of the referral psychiatric community of Greenwich High School, and Charles McCarroll, social worker employed by Greenwich High School. Fraudulently listed, but not appearing was Gail Sheehy, prominent journalist, author, and former employer of the petitioner.

Several hours of testimony taken from defendants Charles P. Iecht, Dr. Peritz

Levinson, and Charles McCarroll exposed the following facts: (1) the petitioner had had a thirty-minute conference with defendant Levinson, who sought to force her into psychiatric treatment (App., pp.6-11); (2) report that the petitioner was "unquestionably paranoid and neurotic" was generated in the office of Charles McCarroll by Eric Lecht, seventeen-year-old son of Charles Lecht by a former marriage, and by Charles Lecht, who was described by Greenwich High School authorities as a "reliable informant (App., p.8); (3) Eric Lecht was academically behind by twoyears and experiencing behavioral problems; (4) Eric Lecht was described by Charles McCarroll as a "very fine boy," as having thrown rocks through the windows of the family home, as experiencing academic difficulties, and as requiring a place to stay during the late May absence of Charles Lecht (who had served dissolution papers and left the country immediately prior to the June 15, 1976, hearing); (5) Charles McCarroll had attempted to involve Margaret Erica Lecht, daughter of the petitioner, in the presence of Charles P. Lecht and Eric Lecht and in his office, in having her mother diagnosed; (6) Margaret Erica Lecht, (who subsequently in January of 1978 graduated as a National Honor Society student from Greenwich High School), was described by Charles McCarroll as being "defensive" a condition characterized by Dr. Peritz Levinson as "usually associated with abnormality;" (6) Charles P. Lecht described the petitioner as having "rifled" the apartment of Gail Sheehy, as requiring "immediate examination for a prolonged period over a reasonable length of time;" (7) Charles Lecht asked that thepetitioner be "forcibly" removed from the home,

claiming also that the toilets weren't flushed and the beds weren't made; (8) charges that the petitioner had used "foul and abusive language," physical violence, and had declared herself and her daughter the "messiah" and other allegations contrived to convey an impression of dangerousness towards having the petitioner involuntarily hospitalized were unsubstantiated; (9) the Court revealed that defendant McDonald, attorney for defendant Lecht, had been, prior to the hearing, urging the need for decision "within a matter of hours." (App., p.8).

In open Court, prior to convening, the Court noted the presence of the petitioner's seven witnesses as representing a "fine" crowd and further stated that "If this lady is as crazy as these papers make her outto be, then this case belongs in probate prior to admission," a crucial fact that illustrates the powerfully damaging nature of the papers served upon the petitioner and carried in her file thereafter as the last judicial action awaiting a resolution that did not occur on June 15, 1976. The State Court refused to allow either the petitioner or her witnesses to take the stand, choosing instead to terminate the hearing by ordering a psychiatric investigation of the plaintiff-husband, defendant-wife and the children. The Court also refused to act on motions to vacate, responding to the petitioner, who pleaded from the floor in her own behalf, that he wasn't going to vacate anyone on the theory that "he (defendant Lecht) pays the bills." The Court also refused to act on the petitioner's Motion for Attorney's Fees and entered financial orders during luncheon recess in response to the papers prepared by the defendant attorneys herein and without financial information supplied by the petitioner, whose attorney

had dress-rehearsed for psychiatric allegations but knew nothing of financial circumstances.

During June of 1976, the petitioner presented herself and her children to the Family Relations Officer, James Murphy, who had been ordered to arrange for the psychiatric investigation. She was told that defendant Iecht did not want to participate and was not required to. The investigation was, therefore, cancelled since defendant Iecht had also been ordered to pay. In subsequent testimony in the State court, during custody hearings once again entered upon by defendant Iecht in July of 1978, James Murphy testified that he had placed the court order "on the back burner." The petitioner protested that C.G.S. 51-338 prohibited the disposition of a case until a court-ordered investigation had been completed and filed in duplicate with the clerk of the court.

From June of 1976 until July of 1977, no court action occurred, when motion by defendant Cohen in behalf of the plaintiff-husband for referral to referee was granted without objection but also without the defendant-wife's written consent or that of her attorney required by C.G.S. 52-434, which states that, "The superior court...may, with the written consent of the parties or their attorneys, refer any case pending...to such state referee, who shall have and exercise the powers of the superior court in regard to trial, judgment and appeal in such cases."

On November 3, 1977, attorney for the plaintiff informed the defendant's attorney (wife-petitioner) that "I have called Judge Tunick's Clerk and have set up a trial date for Tuesday, January 10, 1978, at 10 a.m. before Judge Tunick," as appears in his letter.

On November 15, 1977, a decision was rendered on Charles Iecht's motion to determine

alimony and support obligations as follows: "No basis to change the existing order of the court as stated on page 2 of plaintiff-husband's affidavit Item IV-6. 'Child support (order of the court) $330.00.'"

On December 2, 1977, defendant (petitioner) filed motion for contempt of court against the plaintiff, which was scheduled by the Court for hearing on December 9, 1977, and which claimed $10,000 in back support based on his payments of only $200.00 per week.

The case was called before the State Referee on December 7, 1977, who recommended that all marital property be sold. On December 8, 1977, the petitioner, in a highly distressed state, already anxious and threatened by the precarious financial situation caused in her householdby Mr. Iecht's withholding of necessary and court-ordered funds, and newly threatened by the court recommendation, agreed to a settlement: (1) waived her right to appeal; (2) authorized sale of joint property in Sparta, New Jersey, the proceeds from which were to accrue against a liability claimed by Charles Iecht in the amount of $30,000 in an unsecured loan; (3) stipulated that she would vacate from the residence by April 1, 1978, under a joint custody and joint property stipulation and noting that her only reason for doing so was concern for her "children's school and neighborhood adjustments;" (4) permitted refinancing of the Greenwich property in an unstipulated amount or limit; (5) assigned all debts listed in her financial affidavit, including attorney's fees accrued in self-defense, to her; (6) stipulated payment of $10,000 and a six-year term of alimony at $1,000 a month; (7) stipulated that her furniture, including a Steinway grand piano could be left in the Greenwich residence "rent-free;"

(8) left hospitalization and possible return of the residence and of child custodial support open for future adjudication upon showing of merit.

Judgment of separation was verbally enunciated based upon grounds of irretrievable breakdown. The husband-plaintiff's complaint was amended on January 18, 1978, by leave of the court, to withdraw grounds for intolerable cruelty.

The petitioner's Motion for Review, submitted in Federal district court at Bridgeport by the State Attorney General, as evidence of the "pendency" of the State litigation (App., pp.), was briefed on April 13, 1978, with constitutional arguments against moral and property duress, citing Smith v. U.S., C.C.A. Tex., 153., F. 2d 655; French v. Shoemaker, 14 Wall, 314 20 L. Ed. 852; Kohn v. Milcher, 43 F 641; and Scheeline v. Fezzola, 29 Cal. App. 266, 155 at 127. From Smith, it was noted that "A person need not be put in fear of personal harm or injury in order that duress may be present, since there may be duress of property as well as duress of person." From French, and under the theory of "pressing want of pecuniary means," the position of nullity of the agreement was stated that: "...where the other party to it (a signed agreement) is not responsible for those circumstances and has not created those necessities or embarassments, (it) is a voluntary act and he is bound by its terms." (C.J.S., p. 504).

To this date, no decision has been rendered on the petitioner's Motion for Review by the State court, unless it is to be assumed that the October 22, 1979, Memorandum of Decision, referring to "innumerable motions and briefs" subsumes this Motion. (App. 5)

ISSUE

Whether the police powers of the State invoked through marital jurisdiction against the petitioner (a housewife and mother) so deprived her of the equal protection of the law (abuse of process and malicious prosecution) and of civil rights (invidious anti-female discrimination in the free exercise of First, Fourth, Fifth, Thirteenth, and Fourteenth Amendment rights) as to warrant habeas corpus relief from a condition of involuntary servitude

ARGUMENT

The awesome power of the state with respect to marriage as defined in Maynard v. Hill, 125 U.S. 190, 8 S. Ct. 723, 31 L. Ed. 651, terminated the "power of the parties as to its (the marital contract's) extent or duration" once the relationship has been contracted. In significant part a creature of the state, marriage, more than any civil matter, requires reasonable exercise of state power. Its significance is described by the Maynard court as follows:

> It is not, then, a contract within the meaning of the obligation of contracts. It is, rather, a social relation like that of parent and child, the obligations of which arise not from the consent of concurring minds, but are the creation of the law itself; a relation the most important, as affecting the happiness of individuals, the first step from barbarism to incipient civilization, the purest tie of social life and the true basis of human progress.

In the Maynard context, marital jurisdiction would seem to issue from statutory investment of power in the courts to examine family relationships in a pervasive way that can, and, to

a greater or lesser degree, does border upon invasion of the constitutional rights of parties otherwise free to assert those rights as against governmental intrusion. It should and must, therefore, be bound to the highest standards of protection under statutory and constitutional law.

The right to defend in the caseat bar has been mutilated from the moment of inception within the marital jurisdiction of the State of Connecticut. Grounds for intolerable cruelty were relied upon the plaintiff-husband against the defendant-wife to justify entry upon marital litigation less than four months after the family move from New York State into Connecticut and in manipulative contravention of the statutory one-year residency requirement for subject-matter jurisdiction over grounds for irretrievable breakdown. Yet, the gravamen of intolerable cruelty was never reached by the State court.

In aid of grounds for intolerable cruelty, the plaintiff-husband, along with co-conspirators against 42 U.S. 1981 et seq. and Connecticut criminal statute 17-184, which makes conspiracy-to-commit felonious, embarked upon a course intended to have the defendant-wife involuntarily subjected to drugging and/or hospitalization for mental illness, as appears in transcript from June 15, 1976, State court proceedings, excerpted in Appendix, pp. 6-11. Intent is also indicated by the motion of June 8, 1976, which prompted the commitment proceedings, reproduced in Appendix, pp. VII 1-6 (#78-1921) Said motion-hearing is the subject of this dispute.

The involvement of Greenwich High School is established by the testimony of defendant Dr. Peritz Levinson, member of the psychiatric referral community of the school. The involvement of the Town of Greenwich, its attorneys, school employees and/or officials is elaborated

upon within notifications given by the petitioner and proposed amendments founded upon Monell v. New York City Dept. of Social Services, as reported in 46 U.S.I.W. 4569, June 1978.

From the transcripted testimony, it is readily perceived that the thrust of the June 15, 1976, hearing was tohave the petitioner (Mrs. Lecht) involuntarily subjected to the will and intent of a conspiracy to have her "treated" as mentally ill on the strength of (1) a 30-minute conference with defendant Dr. Peritz Levinson; (2) reports made by defendant Charles Lecht and his seventeen-year-old son by a former marriage to defendants Charles McCarroll and Dr. Peritz Levinson about the petitioner; (3) reports made by Greenwich High School to defendant Dr. Peritz Levinson about the "reliability" of defendant Lecht as an "informant." The petitioner's daughter, Margaret Erica Lecht, a National Honor Society graduate in January of 1978, was asked to concur in the diagnosis of her mother. In not doing so, she was described on June 15, 1976, by defendant McCarroll as being "defensive" and defendant Levinson described defensiveness as characteristic of "abnormality." Eric Lecht, openly admitted by defendant McCarroll to have been in academic and behavioral difficulty and to have thrown rocks through the windowsof the family home was characterized as a "very fine boy."

It should be noted that defendant Lecht, having served dissolution papers, saw fit to leave the country, entrusting the care of the children to a supposedly mentally ill spouse and, in cavalier disregard for the import of his actions, abandoning his seventeen-year-old son to the emotional trauma of impending dissolution. His absence is attested to in transcript. His motion of June 8, 1976, was drawn one week after his return.

In the light of defendant Iecht's subsequent refusal to participate in the court-ordered psychiatric evaluation, which refusal was sustained by James Murphy, Family Relations Officer, as being "normal" procedure, the petitioner's allegations of class-based conspiracy are far from conclusory. Denied in the first instance of the June 15, 1976, a full and fair hearing when she and her seven witnesses sought to take the stand to testify as to the intolerable cruelty that had been exercised against her, the petitioner was then denied access to the psychiatric investigation ordered by the Court, which was to have been paid for by defendant Iecht.

The district court's characterization of this procedure is and has been erroneous. noting that "plaintiff stresses her husband's unsuccessful application shortly after the state suit's commencement two years ago to secure her ouster from the couple's home and a possible psychiatric examination, noting that defendants Levinson and McCarroll testified at that motion's hearing." (App., p. 18) The facts and circumstances of this conspiracy would have, at the time of federal entry, and under trial circumstances, exposed the error of the ruling in according "a rather strained theory of liability at best when the official is but a school staff member acting as a witness in court proceeding" under the assumption that "a link between such a public employee and the others would support a federal claim against any or all of those private citizens under 42 U.S.C. 1983, cf. Adickes v. Kress & Co., 398 U.S. 144, 152 (1970)" (App. 18)

The class-based, invidiously discriminatory animus behind the conspirators' action, cf. Griffin v. Breckenridge, 403 U.S. 88, 102 (1971) actionable against private persons under the

Thirteenth Amendment, (N.B. the petitioner cited "invidious discrimination" on the first page of her complaint), is comprehensible when the role of Sex-Based Discrimination in the Mental Institutionalization of Women, California Law Review, Vol. 62, No. 3, May 1974, is fully explored. Robert Roth and Judith Lerner, Id. at 799, have this to say:

> Women involved in custody suits are another target for institutionalization. A renowned forensic psychiatrist has observed that when the sanity of a parent is at issue in a custody suit, it is almost always the mother's sanity that is questioned. Cf. lecture by Martin Blinder, M.D., Hastings College of the Law, in San Francisco, California, November 20, 1973. See also Malmquest, The Role of Mental Illness in Custody Proceedings, 2 Family L.Q. 360, 365-70 (1968) (all cases discussed refer to mental illness of the mother only); Podell, Peck & First, Custody--To Which Parent?, 56 Marq. L. Rev. 51, 61-68 (1972)...Fathers or grandparents seeking custody may seek to create proof of the mother's unfitness by hospitalizing her for mental illness.

All three questions posed as warning signs of sex-based discrimination by Roth and Lerner, p. 814, are answerable in the affirmative herein (except for those referring to sexual promiscuity, which have been omitted as not being at issue herein):

> A. At the admissions level. Is a husband trying to get custody of the

children? Is the woman being punished for attempting to explore a new or unconventional mode of living?

B. At the level of treatment. Is the woman being "treated" for refusing to perform menial domestic tasks? For displays of temper or self-assertion that would be tolerated in a man?

C. At the release level. Is the female patient-inmate being held for refusing to adopt a sex-stereotyped role? Because she has no job? Because of the therapist's "protectiveness" or feelings of "sympathy?"

Allegations by Mr. Lecht on June 15, 1976, included the statement that the petitioner had "reordered" the house back to its "grease-laden condition" after he had cleaned it up. During this period of time, defendant Lecht had seized all finances, closed the checking and savings account, threatened to throw the petitioner's parents out of the house bodily if they attempted to come to her aid, graffitti'ed on the bedsheets, dumped cartons from the move, attempted to block access to her daughter's bedroom saying that she was incompetent to speak with her (causing the petitioner to shove him aside at whatever risk to herself), objected to removal of the petitioner's son into the protective custody of her brother, threatened her under Connecticut's emergency commitment statute that requires only the signature of a relative and a psychiatrist, and performed other heinous acts of intimidation and harassment.

The State court refused to hear thepetitioner's side of the case and refused to grant her motion to have the plaintiff-husband vacate the residence on the theory that "he pays the bills," a clearly discriminatory statement, which, in itself, supplies [illegible] of State law, refused

to address her motion for attorney's fees, which, in denial of the equal protection of the law, left her permanently disabled and indebted to friends for required retainers, and, in other respects, failed to satisfy the jurisdictional requirements enunciated not only by fairness doctrines but by Connecticut law in LaBow v. LaBow, 171 C 433, at 439:

> In Morgan v. Morgan, supra, it was held (p. 197) that even where the Superior Court lacked jurisdiction to hear and determine an action of divorce, it nevertheless had jurisdiction "to make the orders for an allowance to defend," because of the state's interest in allowing the defendant wife to present her version of the facts. Applying the same rationale, it is noted that the state has an interest in the maintenance of the spouse and children during the pendency of an action for dissolution of marriage. Christiano v. Christiano, 131 C 589, 595, 41 A. 2d 779.

Arguments made in the State court on the issue of subject-matter jurisdiction can be summarized from Lacks v. Lacks, 41 N.Y. 2d 71 at 384, relied upon in LaBow, supra:

> Absence of competence to entertain an action deprives the court of "subject matter jurisdiction;" absence of power to reach the merits does not.

Prior to the hearing on June 15, 1976, the State court commented that: "If this lady is as crazy as these papers make her out to be then this case belongs in probate prior to admission." The presence of a "fine crowd," noted by the Court, which could not have been anticipated at the time the show-cause order was signed and when the court denied postponement,

most certainly buoyed the petitioner's spirits. However, no adjudication took place on June 15, 1976, and the court, in remanding the matter into psychiatric jurisdiction acknowledged its incompetence to have entertained the matter in the first place. The motion-hearing served to wound the standing of the petitioner and left her key-point motions to vacate and for attorney's fees moot. From Iacks, supra, at 385, comes the following:

> ...questions of mootness and standing of the parties may be characterized as raising questions of subject matter jurisdiction. (See, e.g., Sosna v. Iowa, 419 U.S. 393, 398, 402, 95 S. Ct. 553, 42 L. Ed. 2d 532, supra; Massachusetts v. Mellon, 262 U.S. 447, 484-485, 43 S. Ct. 597, 67 L. Ed. 1078).

FEDERALISM, COMITY, DUE PROCESS AND EQUITY

The test for federal intervention laid down by Younger v. Harris, 401 U.S. 37 (1971) revolved upon great, immediate and irreparable injury elucidated in Dombrowski v. Pfister, 380 U S. 479 (1965), which was relied upon by the Younger court, as meaning when "threat to the plaintiff's federally protected rights (is) one that cannot be eliminated by his defense against a single criminal prosecution." Dombrowski at 46, citing Ex Parte Young, 209 U.S. 123, 145-47 (1908). It is patently obvious at this point in time--approximately one year and six months since the petitioner on April 3, 1978, filed complaint in the district court--under threat of eviction and waiver of her right to appeal accomplished by force of a stipulated settlement and judgment of separation secured by property and moral duress exercised against herself and her minor children--that the pendency argument proffered by the State Attorney General in defense

against federal intervention and his claims to comity for the State process have been more theoretical than real, cf. New Haven Tenants' Representative Council, Inc., v. Housing Authority, 390 F. Supp 831 (D. Conn. 1973).

Entry of judgment by the State court, accompanied by its memorandum of decision (App., p. 5) that characterizes the petitioner's cause as having "threatened actions," accomplishes, if nothing else, an exhaustion of State remedies requisite for federal claims under waiver of appeal rights stipulated under purportedly valid contractual agreement. In the light of the petitioner's Motion to Vacate Judgment (App., pp. 24-27), undertaken to move the court into a decision on key-point issues left undecided since April of 1978, the State court action illustrates further deprivation of the defendant-wife's (petitioner herein) First and Fourteenth Amendment rights. To that effect, the petitioner, cognizant of the objection of the State Attorney General raised within this suit to amendments to include parties without prior notification, has addressed correspondence to the judge in question, as appears in Appendix, pp. 1-23. That the petitioner's battle is now with the Court and under full color of State law seems evident from the fact that no written objection to her motion to vacate judgment has been filed by defendant Lecht.

Litigation in this case now threatens to become circular, since the petitioner's emerging legal consciousness of the subterfuges whereby collusion and conspiracy have gone in disguise as a court and a municipality, amply pleaded and briefed subsequent to the July 1978 federal district court decision, will persevere.

The element of compulsion that accompanies the marital bond, cf. Flood v. Kuhn, 316 F. Supp. 271, affirmed 443 F. 2d 264, affirmed 92 S. Ct. 2099, 407 U.S. 258, 32 L. Ed. 2d 728, provides a basis for the use of the Thirteenth Amendment as constitutional support for claims under 42 U.S. 1981 et seq., Byrd v. Local Union No. 24, International Brotherhood of Electrical Workers, D.C. Md. 1974, 375 F. Supp. 545. The special circumstances indicating the need for habeas corpus relief include the fact that the writ must be used to prevent a complete miscarriage of justice, not merely to determine points of jurisdiction, stricti juris, and constitutional questions. U.S. ex rel. Kulick v. Kennedy, C.C.A. Conn. 1946, 157 F. 2d 811.

The miscarriage of justice represented by act of the State court on October 22, 1979, prompts the petitioner to request re-examination of Docket No. 78-1921, denied by this Court on October 1, 1979, in the light of Title 28, U.S.C. 2244(c), concerning finality of determination, which states:

> In a habeas corpus proceeding brought in behalf of a person in custody pursuant to the judgment of a State court, a prior judgment of the Supreme Court of the United States on an appeal or review by writ of certiorari at the instance of the prisoner of the decision of such State court shall be conclusive as to all issues of fact or law with respect to an asserted denial of a Federal right which constitutes ground for discharge in a habeas corpus proceeding, actually adjudicated by the Supreme Court herein, unless

> the applicant for the writ of habeas corpus shall plead and the court shall find the existence of a material and controlling fact which did not appear in the record of the proceeding in the Supreme Court and the court shall further find that the applicant for the writ of habeas corpus could not have caused such fact to appear in such record by the exercise of reasonable diligence.

The fact of entry of the December 8, 1977, judgment could not have been recorded by the petitioner in Docket No. 78-1921. Also noteworthy and not previously pleaded is the fact that it is only a hope in process that has sustained the petitioner in the belief that she has the right not to have been summarily dismissed from her residence and from reputable motherhood by a court that has acted in the absence of all clear jurisdiction, cf. Stump v. Sparkman, U.S. , 46 U.S.L.W. 4253 (March 28, 1978) and in clear violation of State jurisdictional laws as well as C.G.S. 51-338. The subject matter of the marital litigation has been intolerable cruelty, created by statute. The subject-matter of the federal suit has been the duress of conspiracy, ongoing at the State level, within which the original will and intent of forcible eviction of the petitioner has been upheld. The Greenwich and New York community--outside the purview of the court--are shocked to the point of scandal.

In Ex parte Turner, C.C. Ala. 1879, 3 Woods 603, 24 Fed. Cas. No. 14, 246, a condition of forced apprenticeship was deemed to be equivalent to involuntary servitude in violation of the Thirteenth Amendment and illegal detention deserving of discharge under habeas corpus. During the entire period of this litigation, the

petitioner has lived in search of legal assistance, without resolution of her residency rights by legal decision, without a court of valid jurisdiction, and, especially from April of 1978 through April of 1979, when forcible eviction on April 25, 1979, pre-empted a show-cause hearing on April 26, 1979, without means of support for herself and her son, in enforced servitude to a house held only in defendant Iecht's name, without money to move or to remove her possessions short of acquiescence to an agreement dictated by defendant Cohen. Collusion of the court in effecting that agreement by recommending on December 7, 1977, that "all marital property must be sold" is apparent from information and knowledge held by defendant Iecht, whose callousness in threatening and perjurious financial claims are exposed by his level of income of well over $116,000 per year as supported by company publication.

The determination requested by the petitioner is that, contingent upon oral argument and permission to file further briefs, if such be deemed requisite, this case and controversy be reversed and remanded to the United States District Court at Bridgeport for trial by jury within which the petitioner can be represented by an attorney experienced in these matters. Or, that such just and equitable relief as cannot be contemplated by the petitioner pro se under the extreme and unusual hardship of having to represent herself be accorded by writ of habeas corpus, permitting the appointment of an attorney in this matter of grave public interest.

THE PETITIONER, PRO SE

MAUREEN KELLY IECHT
P.O. Box 4154
Greenwich, Ct. 06830

Nov. 12, 1979

IN THE

SUPREME COURT OF THE UNITED STATES
(Court of Appeals Docket #79-8431)

October Term, 1979

NO.

MAUREEN KELLY IECHT
Petitioner

VS.

IEVINSCN ET AI
Respondents

MOTION FOR LEAVE TO FILE AND PETITION FOR A WRIT OF HABEAS CORPUS

APPENDIX

Pro Se Petitioner
P.O. Box 4154
Greenwich, Ct.
06830

T 1080—Notice of motion: U.S. Court of Appeals: Second Circuit: 1-78

PTD. BY JULIUS BLUMBERG, INC. NYC 10013

Second Circuit Rule 27(a) governing use of this form is reprinted on reverse.
Note requirement that lower court opinion or agency decision be attached.

79 | 8431
Docket Number

UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT

FILED
JUL 28 1979
A. DANIEL FUSARO, CLERK
SECOND CIRCUIT

LECHT V. LEVINSON

Use short title

NOTICE OF MOTION

state type of motion

Out-of-time docketing, certificate of probable cause, stay, and permission to file printed brief

MOTION BY: *(Name and tel. no. of attorney in charge)*
Maureen Kelly Lecht
c/o Nakashian, 323-3355

OPPOSING COUNSEL: *(Name and tel. no. of attorney in charge)*

Has opposing counsel consented? ☐ Yes ☒ No
Has service been effected? ☒ Yes ☐ No
Is oral argument desired? ☒ Yes ☐ No
(Substantive motions only)
Requested return date: Earliest possible
(See Second Circuit Rule 27(b))
Date of argument of appeal, if scheduled:

Judge or agency whose order is being appealed:
T. Gilroy Daly

EMERGENCY MOTIONS, MOTIONS FOR STAYS & INJUNCTIONS PENDING APPEAL
Has request for relief been made below?
(See F.R.A.P. Rule 8.) ☒ Yes ☐ No
Would expedited appeal eliminate need for this motion?
☐ Yes ☒ No
If no, explain why not:
Docketing is predicated upon possible remand from the U.S. Supreme Court

Brief statement of the relief requested: The petitioner seeks to maintain appeals status within this Court pending determination by the United States Supreme Court of the status of her petition for a writ of habeas corpus and/or appeal by right on concurrent State court jurisdiction.

Previous requests for similar relief and disposition: A motion for stay pending determination of a motion to amend process with further complaint against the Hon. Defendant Cotter was denied by Judge Daly on April 17, 1979, which was nine days before the movant was summarily evicted from her residence

Statement of the issue(s) presented by this motion:

This compound motion is intended to perfect appeals status while complex issues are awaiting disposition or decision by the United States Supreme Court. The issue presented to this Court in Forms C and D is whether a judgment entered upon motions to dismiss has res judicata effect upon motions to reopen based on changed circumstances.

Brief statement of the facts *(with page references to the moving papers)*: This is a civil-rights action based upon charges of conspiracy-to-commit in violation of C.G.S. 17-184 and of 42 U.S. 1983, stemming from marital litigation. Pages 24 through 34 of the brief printed for the United States Supreme Court contain a statement of fact. Permission is sought to file this brief and to obtain the sympathy of this Court in issuing a certificate of probable cause.

Summary of the argument *(with page references to the moving papers)*: Questions raised in the United States Supreme Court are intended for adjudication, within the jurisdiction deemed appropriate. A summary of the argument to be brought in this Court in the event of remand is from page 6 of the enclosed memorandum of law on Rule 60(b) submitted to the United States District Court:

> The decision in Green v. Ancora-Citronelle Corp, C.A. Cal., 1978, 566 F. 2d 1380 that "alleged fraud must be such that it prevents party from having opportunity to present his claim or defense in court or deprives party of his right to a day in court" relates to events subsequent to the July 1978 judgment that have confirmed the plaintiff's allegations of civil rights conspiracy and have left her, with each reopening attempt within this Court, in a more disadvantaged position.

July 24, 1979
Date

Maureen Kelly Lecht
The name signed must be printed beneath
Maureen Kelly Lecht

ORDER

Kindly leave this space blank.

IT IS HEREBY ORDERED that the motion leave to docket appeal out-of-time; certificate of probable cause; stay pending appeal to the Supreme Court; permission to file printed brief

be and it hereby is ~~granted~~ denied

Thomas J. Meskill
Robert J. Ward (USDJ)

6/14/79
Date

James S. Hoyer
Circuit Judges

APPENDIX 2

UNITED STATES COURT OF APPEALS
SECOND CIRCUIT

MAUREEN KELLY LECHT	(	DOCKET NO. 79-8431
	(	
VS.	(	NOTICE OF APPEAL
	(	
LEVINSON ET AL	(	
	(	September 11, 1979

Notification is hereby given that matters pertaining to the plaintiff s motion for leave to docket appeal out-of-time; for certificate of probable cause; for stay pending appeal to the United States Supreme Court; and for permission to file a printed brief will be consolidated within United States Supreme Court appeal currently docketed as No. 1921, date of June 19, 1979. Or, in the alternative, the August 14, 1979, denial of the plaintiff's compound motion, referenced herein, will be the subject of independent appeal, absent affirmative response by the United States Supreme Court on the issue of concurrent jurisdiction under 28 U.S. 1343 with particular regard to the plaintiff's motion for leave to file a petition for habeas corpus.

THE PLAINTIFF, PRO SE

MAUREEN KELLY LECHT
P.O. Box 4154
Greenwich, Ct.06830

Service certified on 12 September 1979, to all parties.

UNITED STATES COURT OF APPEALS
SECOND CIRCUIT

MAUREEN KELLY IECHT	(	DOCKET NO. 79-8431
	(	
VS.	(	
	(	AFFIDAVIT IN SUPPORT OF APPEAL
IEVINSON ET AL	(	
	(	September 11, 1979

I, Maureen Kelly Iecht, having been duly deposed and sworn, do hereby state and affirm that:

1. I am the plaintiff in the above-cited matter;

2. The facts and circumstances enumerated and described herein are true to the best of my knowledge;

3. I have been deprived of the jurisdiction of both State and Federal courts with regard to the complaint I have made against the parties named herein as defendants.

(Signed)
Maureen Kelly Iecht

This is to certify that Maureen Kelly Iecht, known to me, appeared before me on this 12th day of September 1979, and affixed her signature under oath.

SS (Signed and sealed)
Irving Mark

UNITED STATES COURT OF APPEALS
SECOND CIRCUIT
UNITED STATES COURTHOUSE
Foley Square
New York 10007

A. Daniel Fusaro
Clerk

July 10, 1979

Ms. Maureen Kelly Iecht
Stiles Iane
P.O.B. 4154
Greenwich, Ct. 06830

Re: Iecht v. Ievinson

Dear Ms. Iecht:

The Clerk of the District Court has forwarded tous your notice of appeal to the Supreme Court, plus your completed Forms C & D required by the Civil Appeals Management Plan of this Court. If you intend to pursue your appeal here, please forward tous immediately an application for leave to docket the appeal out-of-time and a $50 docketing fee. Please use the enclosed notice of motion form in making your application and remember to serve your application on all of your adversaries.

If we do not hear from you by July 24, 1979 your appeal will be dismissed for failure to docket.

Very truly yours,

A. DANIEL FUSARO
Clerk

by (Signed)
Sara Tievia
Deputy Clerk

cc: Clerk, U S. Supreme Court (S.Ct. #78-1921; Clerk, U S. District Court for the District of Connecticut (D.Ct # B 78 Civ. 134; All opposing Counsel; Pro-Se office

NO. 029167

CHARLES PHILLIP LECHT

VS

MAUREEN KELLY LECHT

SUPERIOR COURT

FAIRFIELD COUNTY
JUDICIAL DISTRICT
AT STAMFORD

October 22, 1979

MEMORANDUM OF DECISION

The defendant filed a motion to vacate judgment.

The court denies said motion for the reason that she did not supply the court with any cogent and legal reason why the judgment should be vacated.

The defendant has filed innumerable motions and briefs in the case along with actions in Federal Courts and threatened actions in other divisions of the Superior Court. However, despite many attempts to vacate the judgment of the court, the court finds no valid and allowable reason to vacate.

(Signed)

_____, J.
TEDESCO

Handwritten: Judgment entered in accordance with the foregoing on 10/23/79.
(Initialed)

Transcript, June 15, 1976, Superior Court at Stamford, T. Clark Hull, presiding:

Page 5-6

Q (By the court) Doctor, in your own words, would you describe in much detail as you can to the court, how you became involved with the Lecht family; what you did; what was said in general; what your recommendations and conclusions were.

A (Dr. Levinson) Mr. Lecht had been in consultation with the high school because of problems, I think, primarily centering around his oldest son Eric, who is a student at the Greenwich High School. The social worker, Mr. McCarroll, of the Greenwich High School, suggested that Mr. Lecht have psychiatric consultation.

THE COURT: How old is Eric?

THE WITNESS: Seventeen, I believe.

THE COURT: I see that Erica Margaret was adopted, and Jonathan is issue of the parties. But this one is not adopted; it is a third child.

MR. McDONALD: Yes, this is a child by Mr. Lecht's former wife.

THE COURT: And he's seventeen.

MR. McDONALD: That's correct

THE COURT: Thank you. Go ahead.

A So Mr. Lecht was recomended to me because of what appeared to the school to be a family problem.

Pages 7-9

A (By Dr. Levinson) The thought was that the marital problems had spread out to be a family problem, and one of the symptoms was the school dysfunction of Eric. Mr. Lecht then called me for an appointment, and came in, I believe it was one May, first of May, and he spoke with me for a short time, and then Mrs. Lecht came in, and I spoke with her for about a half hour. I felt, number one, I thought it was very good that she came along and was participating, to begin with, although she clearly was a reluctant participant. I felt a good deal of sympathy for her, when I met with her and she spoke to me, and spoke honestly, and I felt that was commendable, in view of the fact that she felt that certain accusations might be leveled at her. And I felt particularly sympathetic because I thought she was struggling with the emotional problems, and very bravely so. At the end of the session -- and it was only one session -- I began to derive the impression that family problems were, to a certain extent, emanating from Mrs. Lecht's problems, and I suggested to her that she come back for further interviews in order that we explore this further, to see what might be happening, without making any conclusions. Mrs. Lecht politely declined. And at that point I thought it would be worthwhile to make one more suggestion, and that is on a preliminary basis, based on a preliminary impression; that I thought that one of the things she was struggling with was a great deal of turmoil and anger; and I thought that the modern day medication, the tranquilizers, in two-thirds of such situations where there is the turmoil, the tension and anger, are quite effective.

THE COURT: Valium, Thorazine?

THE WITNESS: Thorazene, exactly.

A I suggested to Mrs. Lecht that she take medication and she rejected that also. That was the extent of my contact with her. Subsequently she did not come in; but I did see Mr. Lecht on several occasions, subsequently.

Pages 9-10

Q (BY MR. McDONALD, MR. LECHT'S ATTORNEY) Doctor, did you check Mr. Lecht's version of the events with Mr. McCarroll of the high school or other sources?

A. Yes.

Q What was your impression from doing that?

A My impression was that he was a reliable informant.

Pages 10-11

Q (BY MR. McDONALD) Doctor, do you feel some form of treatment, whatever it might be, would be necessary in this case for Mrs. Lecht?

A That was my feeling.

Page 11

BY THE COURT:

Q Well, under those circumstances, I take it, then, you're not here to testify as -- that there is any great urgency. Mr. McDonald keeps telling me this has to be done in a matter of hours. And if we're going to have an independent evaluation, that seems to be in conflict. I'm not trying to put you on the spot; just to get such guidance as I can.

A (Dr. Levinson) I didn't mean to imply there wasn't anyurgency. I feel there is.

Page 12

Q (BY MR. McDONALD) May I go back to my question, doctor. What you are talking about, are you not, are a brief stay in the hospital to permit the tests to be done and personally to be evaluated, correct?

A (DR. IEVINSON) There is a distinct advantage of the hospital stay, and that is there is a twenty-four hour observation. Where an office evaluation has its limitation.

THE COURT: I'll be helpful in telling you, I'm not a psychiatrist, but I have an awful broad background in psychiatry and probably have read more books than most of you. I know many of the people at Yale.

Q (BY MR. McDONALD) Would that be appropriate in this case.

A (DR. IEVINSON) I think the court would be better to decide that. Let's put it this way. An in-patient evaluation is more comprehensive.

Q. How long does it take?

A I would say four to seven days.

Q Do you have any opinion about Mr. Iecht's mental stability or condition?

A My impression was that considering the stress, that he functioned adequately.

Q What does that mean, doctor?

A Well, that within the broad range and considering the stress, that I would think he was normal at this time.

Pages 13-15

CROSS-EXAMINATION BY MISS DREYFUSS:

Q Dr. Ievinson, you saw Mrs. Iecht, I believe, just for one visit, is that correct?

A Yes.

Q In May?

A Yes.

Q Do you recall when in May?

A One May

Q May first?

A Yes.

Q In other words, approximately six weeks ago?

A Yes.

Q For approximately a half hour?

A Yes.

Q And you've not seen her since?

A No.

Q At that time, would say that the situation was extremely stressful at home?

A Yes.

Q Would you say that her appearance, her demeanor in your office on that day in May indicated someone who was living in a stressful situation?

A Yes.

Q At any time, did Mrs. Iecht tell you that in recent months, in fact just about six months before

meeting with you, she had been seeing her own psychiatrist in New York?

A Yes.

Q Did she tell you that when you suggested her to see another doctor?

A She had told me that already. I didn't suggest that she see another doctor. I only suggested that she come back and see me again.

Q did you specifically suggest thorazine to her?

A No, not that I recall. I suggested medication. We didn't get that far, hat I would suggest a specific medication. I might have mentioned it in passing.

Q Did you suggest that she check it out with her doctor, since she had a doctor?

A I don't think I did. You're asking specific questions. My focus was to try to have Mrs. Iecht continue to see me at that time. She didn't state a willingness in talking to me about returning to her other therapist.

Q But she did state she had another therapist?

A She did. But if she had stated she would be willing to return to him, I would not have --

Q Was there anything in her behavior of an unwillingness to cooperate, or hostility of any kind?

A Well, the way she recounted events in regard to her husband, I felt there was a lot of hostility in regard to that. As far as her willingness to cooperate, Mr. Iecht suggested that they come together if necessary to see me, and he was willing to come back, as witnessed by the fact that he did come back several times. Mrs. Iecht refused to come again.

TRANSCRIPT, December 8, 1977, SUPERIOR COURT for FAIRFIELD COUNTY at STAMFORD, State Referee Archibald S. Tunick, presiding:

Page 2:

THE COURT: Do I understand you have arrived at an agreement?

MR. COHEN (For Charles Iecht): Yes, Your Honor. In the Lecht Matter,the parties have stipulated as follows:

First, the plaintiff wishes to amend his complaint, and the defendant has agreed to this, to claim a Decree of Separation, and to omit any request for Decree of Dissolution.

The defendant has withdrawn her answer and counterclaim.

MR. CARTER (for Maureen Lecht): I move to do so now.

THE COURT: You waive the right to respond to the pleading as amended.

Did you have a further motion to amend, or does your motion include any other amendment other than the relief?

MR. COHEN: Just to assert the relief, Your Honor, of Separation.

MR. CARTER: I waive the statutory period in which to respond.

THE COURT: Or to appeal.

MR. CARTER: Or to appeal.

UNITED STATES DISTRICT COURT

DISTRICT OF CONNECTICUT

MAUREEN KELLY LECHT	(	CIVIL ACTION NO. B-78-134
VS.	(	
LEVINSON ET AL	(	MOTION TO REOPEN PURSUANT TO RULE 60(b) F.R.C.P.
	(	

Notation entered by the court on this motion, May 11, 1979:

"Having reviewed the documents submitted by the plaintiff in support of the instant Motion and in view of all of the prior proceedings in this case, including this Court's decisions on earlier motions to reopen, the Court has determined that this motionshould be, and hereby is DENIED.

T. Gilroy Daly,
U.S.D.J.

UNITED STATES DISTRICT COURT
DISTRICT OF CONNECTICUT

MAUREEN KELLY LECHT	:	
Plaintiff	:	
-v-	:	Civil No. B-78-134
DR. PERITZ LEVINSON ET AL	:	
Defendants	:	

RULING ON PLAINTIFF'S MOTION TO REOPEN

This is a pro se civil rights action arising from a domestic relations situation which is the subject of still-pending Connecticut state court proceedings. This is the second time plaintiff has moved to reopen the judgment dismissing her complaint.

Plaintiff instituted this action in April, 1978. In a decision dated June 29, 1978, Magistrate Latimer granted defendant's motions to dismiss. On July 21 over plaintiff's objection, this Court approved the Magistrate's ruling. Plaintiff did not appeal that decision. On August 25, 1978, plaintiff filed a motion to reopen pursuant to Rule 60(b) of the Federal Rules of Civil Procedure. On October 5, 1978, that motion was denied from the bench by this Court after oral argument. Plaintiff did not appeal that decision. Plaintiff now has filed a second motion to reopen, again citing Rule 60(b).

As plaintiff is proceeding pro se, the Court is bound to afford her pleadings liberal construction. Haines v. Kerner, 404 U.S. 519 (1972). Even applying this relaxed standard, however, the Court finds that plaintiff has failed to satisfy any of the requirements of Rule 60 (b).

Plaintiff's allegations and arguments put forth in support of the instant motion do not raise issues relative to Rule 60(b)(1), (4), or (5). Plaintiff sets forth numerous allegations relative to incidents that purportedly occurred after the entry of judgment dismissing plaintiff's complaint, but such allegations, however well documented they may be do not constitute "newly discovered evidence" within the meaning of Rule 60(b)(2). "Rule 60 (b)(2), pertaining to newly discovered evidence,' permits reopening a judgment only on the discovery of evidence in existence and hidden at the time of the judgment . . . ." Ryan v. United States Lines Company, 303 F. 2d 430, 434 (2d Cir. 1962) (emphasis added by the court). The allegations do not indicate the presence of any fraud upon the federal court by an adverse party inthis proceeding prior to the entry of judgment dismissing plaintiff's complaint, as would be required to justify reopening under Rule 60(b)(3). See, e.g., Kupferman v. Consolidated Research and Manufacturing Corp., 459 F. 2d 1072 (2d Cir. 1972). The Court perceives no other reason justifying relief from the operation of the judgment under Rule 60(b)(6), especially because none of the allegations presented with the instant motion materially would alter the factors that precipitated Magistrate Latimer's June 1978 decision

later approved by this Court. A motion to reopen cannot be used as a substitute for appeal.

In accordance with the above, plaintiff's motionto reopen is denied.

Plaintiff also has moved both for a restraining order andto amend process. In view of theruling on plaintiff's motion to reopen, these motions are denied.

It is so Ordered.

Dated at Bridgeport, Connecticut this 5th day of April 1979.

T. F. GILROY DALY
United States District
Judge

UNITED STATES DISTRICT COURT
DISTRICT OF CONNECTICUT

* * * * * * * * * * *
MAUREEN KELLY LECHT *
Plaintiff *
*
VS. * CIVIL NO.
* B-78-134
DR. PERITZ LEVINSON *
ET AL, *
*
Defendants *
* * * * * * * * * * *

RULING ON DEFENDANTS' MOTIONS
TO DISMISS

The instant purported civil rights action for damages and equitable relief arises from a bitter marital dispute which is the subject of still-pending Connecticut state court proceedings; plaintiff has requested in part that this federal Court act to take jurisdiction of the entire controversy, entering incidental orders for support and to maintain the plaintiff in the family residence while also directing the state's chief court administrator not "to enforce orders and agreements issuing from(that) marital litigation." Named as defendant in his official capacity is Justice John P. Cotter, chief court administrator of the

(Pages out of order: skip then return to facing page)

proceedings, the conclusory allegations of conspiracy in this respect are obviously insufficient on the complaint's face, see, e.g., Ostrer v. Aronwald, 567 F. 2d 551, 553 (2 Cir. 1977), given no substance by the state court motion hearing transcript furnished by plaintiff herself -- and it is clear instead that no tenable federal claim whatsoever has been advanced against defendant McCarroll. That being so, there is no basis for the exercise of this Court's limited jurisdiction over that group of defendants. Although plaintiff wishes now to amend her complaint by adding reference to 42 U.S.C. 1985,amendment would be futile; 1985 may extend to "private" conspiracy to deprive oneof federal rights, but only if there is "some racial, orperhaps otherwise class-based, invidiously discriminatory animus behind the conspirators' action," Griffin v. Breckenridge, 403 U.S. 88, 102 (1971), and it is evident that plaintiff depicts herself as having been singled out for abuse.

Defendant Cotter is of course immune from suit for damages, see Stump v. Sparkman, ____ U.S. ____, 46 U.S.L.W. 4253 (March 28, 1978), Pierson v. Ray, 385 U.S. 547 (1967), and as noted above is apparently named as a defendant solely for the purpose of implementing equitable relief. Apart from the fact that the Chief Justice no longer occupies the particular administrative post which prompted his inclusion in the case through seemingly mistaken assumption concerning the position's supervisory powers, the federal Court must simply decline consideration of any in-

Superior Court when this complaint was filed and now Chief Justice of the state supreme court. Other named defendants are plaintiff's husband, Charles P. Lecht, his attorneys, Jonathan Carlisle, Bruce Cohen and Miles McDonald, a psychiatrist, Dr. Peritz Levinson, and a public school social worker, Charles E. McCarroll. Claiming that the latter group of defendants have conspired against her, plaintiff stresses her husband's unsuccessful application shortly after the state suit's commencement two years ago to secure her ouster from the couple's home and a possible psychiatric examination, noting that defendants Levinson and McCarroll testified at that motion's hearing.

Dismissal as against all dfendants is patently impelled. To invoke federal court jurisdiction under the Civil Rights Act as to the supposed conspirators, plaintiff must point to misconduct under color of state authority, see, e.g., Schlein v. Milford Hospital, Inc., 561 F. 2d 427 (2 Cir. 1977), and has not done so, compare, e.g. Fine v. City of New York, 529 F. 2d 70, 74-75, (2 Cir. 1975). The only "official" of any sort among those defendants is Mr. McCarroll, employed by a local school system. Assuming that a link between such a public employee and the others would support a federal claim against any or all of those private citizens under 42 U.S.C. 1983, cf. Adickes v. Kress & Co. 398 U.S. 144, 152 (1970), a rather strained theory of liability at best when the official is but a school staff member acting as a witness in court

terference with the state tribunal as requested. As recently observed by Judge Brieant, "the area of domestic relations, "Merrick v. Merrick, 441 F. Supp. 143, 147 (S.D.N.Y. 1977) is certainly one in which the state has an interest of "sufficiently great import," Juidice v. Vail, 430 U.S. 3237, 335 (1977), to warrant abstention from any such intrusion -- especially here with the state proceedings still unresolved, and the Connecticut courts perfectly competent to afford any merited relief, indeed in far better position to interpret and apply the state law to any extent bearing on plaintiff's claims.

All defendants' pending motions to dismiss are accordingly hereby granted for the reasons indicated, with any intended pendent state law claims dismissed with the purported federal claims for lack of subject matter jurisdiction, see United Mineworkers v. Gibbs, 383 U.S. 715, 726 (1966).

Dated at New Haven, Connecticut, this 29th day of June 1978.

(Signed)

Arthur H. Latimer
United States Magistrate

APPENDIX 21

November 1, 1979

Judge Samuel J. Tedesco
Superior Court
123 Hoyt Street
Stamford, Connecticut

Sir:

Re: Iecht v. Iecht
029067 FA 6

This is to advise you that my Motion for a Change of Venue, which appears on family short calendar for November 5, 1979, should be marked ready and decided on the written substance since I shall beunable to appear for oral argument.

I also wish to advise you that byyour decision of October 22, 1979, which prejudges and characterizes the motion as threatening "actions in other divisions of the Superior Court," you have disqualified yourself from rendering decision as to change of venue.

As presiding judge,however, you will, I am anticipating, be able to assign this motion from the clandar on Monday, November 5, 1979, to one of the other judges hearing family matters.

In any event, prompt action is required in the light of my seriously disadvantaged and preaarious personal situation, as well as that of my daughter. Regarding my son and custodial matters herein I have confidence that I shall be able to vindicate my situation with honor in a less severely compromised jurisdiction. To that end, andhaving suffered an exhaustion of State remedies byyour decision,

APPENDIX 22

I shall be requesting certified copies of portions of the record (to be designated). A change of venue to Bridgeport in custodial matters and with regard to considerations of property sale will not restore my rights but will, however, provide me with a forum for further review of whatever State matters remain while I, for the first time after two abortive attempts, removed this case to the United States District Court at Bridgeport on grounds of deprivation of equal rights guaranteed to me as a female by the Connecticut constitution.

You may wish to note for the record that my petition for habeas corpus relief from the United States Supreme Court, Docket No. 78-1921, denied October 1, 1979, carries with it an exemption from the stare decisis effect that normally accords with a summary disposition by the high Court. While exhausting my state remedies, I have, therefore, in no way diluted my right to be heard in matters which have had no adjudication in Federal court, which has not yet reached the merits.

In construing my legally sought remedies as threatening, you seem to have forgotten your statements in open Court on April 26, 1979, before five or six witnesses, that you would see to it that the fault of the court, if any, would be remedied. I submit toyou that my attempts to show the fault of the court have resulted in further penalty and, in fact, to use Justice Friendly's term, a condition of paralysis resembling "rigor mortis" has set in. Without prompt action on my motion for a change of venue, I shall require the intervention of the Chief Court Administrator.

In conslusion and without fear of further reprisal than has already been taken against me in the Superior Court at Stamford, Connecticut, I should like to remind you that it is the First Amendment right of defendants in the United States court system to petition their government for redress from wrongs done. I should also like to remind you that the Superior Court and the judges and officials thereof have been amply warned of serious abuse of process in having withheld key decisions during 1978. The computer manipulation in February of 1979 also failed for legitimacy as an attempt to enter judgment. Therefore, my motion to vacate judgment originally filed in 1978 and for which no decision was rendered is presumed to be incorporated within your denial of October 22, 1979, especially since you failed to designate which motion you were addressing, stating only that "The defendant has filed a motion to vacate judgment." After my eightenn-month battle in the Superior Court to achieve finality, however, one more miscarriage of justice merely adds insult to injury.

As you are well aware, there are many other matters to be looked into by Federal district court, such as your acknowledgment in open Court that you had told Allen Neigher that I tried to have judges arrested. You may not be aware of the fact that last year in Federal court, Judge Daly arranged for me to consult with Allen Neigher, whose fee was impossible for me in Federal court and who attempted to find legal help for me at the State level. Since then, I've been through a lot and learned a lot; e.g., that the Superior Court judges have been busy in the back rooms, damaging my ability to get legal help adequate to the issues raised.

Sincerely,

(Signed Maureen Kelly Lecht
and certified for service)

IN THE INTEREST OF BREVITY, EXHIBITS ONLY ARE DISPLAYED HEREIN FROM THE REFERENCED STAMFORD SUPERIOR COURT MOTION DISMISSED ON OCTOBER 22, 1979:

MOTION TO VACATE JUDGMENT EXHIBIT "I"

NO. 029167 FA 6	(	SUPERIOR COURT
CHARLES P. LECHT	(	JUDICIAL DISTRICT OF FAIRFIELD
VS.	(	STAMFORD, CONN.
MAUREEN KELLY LECHT	(	April 30, 1979

APPENDIX TO MOTION FOR REVIEW

Following is a listing of motions for which no judicial decision was rendered throughout the period of April through December of 1978, prepared to accord with directive of the Hon. J. Tedesco on April 26, 1979:

119.00	4-14-78	Motion for Review (defendant)
121.00	5-9-78	Motion to Vacate Judgment (defendant)
118.00	4-13-78	Motion to Enter Judgment (plaintiff)
120.00	4-24-78	Objection to judgment file (defendant)
124.03	5-16-78	Motion for Inunction (defendant)
131.00	10-6-78	Motion to Vacate Order for Custody Investigation (defendant)

MOTION TO VACATE JUDGMENT EXHIBIT "I" (Cont'd)

130.00, 124.01 124.02, 141.01, 141.02		Motions for Pendente Lite and Child Support (defendant)
140.00	12-11-78	Motion for Stay Pending Determination of the Instant Motion (defendant) --this was prepared by Jacob Rabinowics, Esq., of New York City and intended to procure decision on the judgment "in dispute" as well as to obtain financial award to prevent the defendant from being "starved into submission"
132.00	10-6-78	Motion for Waiver

Following is a listing of Motions and disposition of Motions throughout 1979:

151.00	1-31-79	Motion to Vacate Custody Decision (defendant)-- unheard
147.00	1-29-79	Motion for Modification (plaintiff)-- unheard, merely acted upon by the plaintiff who removed Jonathan Lecht to New York
150.00	1-30-79	Objection to Modification (defendant)--unheard
157.00	3-9-79	Motion to Transfer (dfendant) --denied and taken on appeal

MOTION TO VACATE JUDGMENT EXHIBIT "I" (Cont'd)

158.00	3-9-79	Motion for Stay (defendant)-- denied in favor of full stay proposed from the bench by Judge Levister (which would have prevented monetary relief sought)
148.00	3-9-79	Motion for Disclosure (defendant)--denied
160.00	3-29-79	Motion for Stay--unheard (defendant)
149.00	1-30-79	Motion for Extension of Time (defendant)--unheard (this was for appeal from custody order)
152.00	2-06-79	Objection to Extension (plaintiff)--unheard.

THE DEFENDANT, PRO SE

Maureen Kelly Lecht
P.O. Box 4154
Greenwich, Ct.06830

MCTICN TC VACATE JUDGMENT EXHIBIT "K"

Transcript, December 8, 1977, Superior Court at Stamford, State Referee Tunick, presiding:

Page 2:

THE CCURT: Do I understand you have arrived at an agreement?

MR. COHEN: Yes, Your Honor. In the Lecht matter, the parties have stipulated as follows:

First, the plaintiff wishes to amend his complaint, and the defendant has agreed to this, to claim a Decree of Separation, and to omit any request for a Decree of Dissolution. The defendant has withdrawn her answer and counterclaim.

MR. CARTER: I move to do so now.

THE COURT: You waive the right to respond to the pleading as amended. Did you have a further motion to amend, or does your motion include any other amendment other than the relief?

MR. CCHEN: Just to assert the relief, Your Honor, of Separation.

MR. CARTER: I waive the statutory period in which to respond.

THE COURT: Or to appeal.

MR. CARTER: Or to appeal.

MCTION TC VACATE JUDGMENT EXHIBIT "C"

From Incident Report #D-91698, Greenwich Police Department, April 21, 1979:

"The complainant, along with Town Counsel Attorney Nottolese, requested assistance in a civil eviction on Stiles Lane, the undersigned, along with It. O'Donnel were dispatched, not to intercede in any civil actions, but to prvent any criminal actions. Upon arrival at Stiles Lane, Town Foreman Sciarrillo was present, along with two other Town employees in a flat bed truck, stating if personal possessions from the Lecht residence were deposited on Bedford Road, he was empowered to take same and put them in storage. Upon arrival of Sherriff Blois, he presented an eviction notice from the court dated February 28, 1979, ordering Mrs. Lecht and her belongings removed from the residence. Allparties were advised that force could not be used to evict Mrs. Lecht. When Mrs. Lecht was approached by Sheriff Bois, she produced a show cause order from Judge Tedesco prohibiting such eviction, dated April 20, 1979. All parties then left."

Signed: It. O'Donnell
and P. Merritt

MOTION TO VACATE JUDGMENT EXHIBIT "P"

From Incident Report, #D-92038, Greenwich Police Department: April 25, 1979:

"Mr. Philip M. Pittocco, Chief Deputy Sheriff, Fairfield County, called headquarters and related that he was in the process of evicting one Maureen Kelly Lecht from Stile Road, Greenwich, Conn. Mr. Pittocco further related he wished officers on the scene in case any trouble ensued while in the process of carrying out the issued notice to vacate.

Detailed to Stiles Road at this time was Sgt. Frank Creamer and Ptlm. F. Gary Honulik. Upon arrival at the scene the assigned officers were met by Mr. Pittocco and Mr. Charles Lecht in the doorway of the residence. Mr. Pittocco greeted the officers and summarized the eviction notice. While this procedure was occuring, exiting from the residence was one Maureen Kelly Lecht, also inside the residence (exiting also) was one Harry Nakashian and Vilma Nakashian. Both subjects related they were friends of Mrs. Lecht and that they were at the scene to help protect Mrs. Lecht's constitutional rights. Mr. and Mrs. Nakashian further stated that Mrs. Lecht was not given proper notification in regards to issued notice to vacate.the residence and that a "show cause" document was a sufficient document to detain eviction. The couple further related that they wanted on record that they had witnessed the issuance of the vacating document issued by Mr. Philip M. Pittocco.

At this time Mr. Pittocco interjected into the conversation and stated that Mrs. Lecht had been issued a notice to vacate on 4/19/79 signed by Judge Novacks. On 4/21/79 Mr. Pittocco stated that Mrs. Lecht applied for a "stay of execution" and a "show cause order" and that only a "show cause order" was issued (hearing on same 4/26/79.) He further stated that the "show cause order" did not enable Mrs. Lecht to stay in the residence.

MRS. LECHT at this time related that she was not leaving the residence because of not being properly notified.of the same. Again, Mr. Pittocco stated that Mrs. Lecht had been notified on 4/19/79 and was aware of the situation. He further related that there was no need to notify Mrs. Lecht again because her furniture was not being moved but has the right to be stored at the residence up to five years as of (Dec. 8th 1977).

At this time Sgt. (Cremer?) related to both Mr. Pittocco and Mrs. Lecht that he and the undersigned were detailed to the scene to "keep the peace" between the 2 parties and that it is not our function (Greenwich police officers) to participate in the actual eviction.

Shortly after Mr. Pittocco asked once again for Mrs. Lecht to leave the residence and once again Mrs. Lecht refused. Soon an argument ensued, ending in Mr. Pittocco leading Mrs. Lecht off the property of the residence. At this time Mrs. Lecht was advised to stay off the property or she would be subject to arrest for criminal trespass. Mrs. Lecht, along with Mr. and Mrs. Nakashian left the area only to return a short time after relating Mrs. Lecht had to obtain a typewriter and a suitcase she had left at the residence. The above-mentioned was given the two articles by Mr. Pittocco and then left the area. Mr. Lecht at this time stated a caretaker would be staying at the residence up until the coming weekend and that he would call headquarters in case of Mrs. Lecht's return. (Area patrol advised of same). (Attached to report vacating document No. 02-91-67 Dated April 17 1979 signed by Judge Novack.

Signed: R. A. Nagle